

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

Crl.MC.No. 508 of 2007()

CC.1474/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, ATTINGAL
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PETITIONER/ACCUSED:

SURESH KUMAR, S/O. BHASI, AGED 40 YRS.
KOZHIYOTTU MADOM, VAIDHYAN MUKKU
KONTHALLOOR DESOM,
KIZHUVILAM VILLAGE, TRIVANDRUM DIST.

BY ADV. SRI.J.JAYAKUMAR

RESPONDENT/COMPLAINANT:

STATE OF KERALA , REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26/02/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 508 of 2007

Dated this the 26th day of February, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 324 I.P.C. According to the petitioner, summons has not been served on him at all. Cognizance has been taken as C.C.No. 1474 of 2005 by the learned J.F.C.M.- I, Attingal. Though the petitioner was not served, on the assumption that service has been effected on him, coercive processes have been issued by the learned Magistrate to secure his presence. Steps under Section 82 and 83 have been taken. Non-bailable warrant has been issued to procure the presence of the petitioner.

2. According to the petitioner, he is absolutely innocent. He was not aware of the pendency of the proceedings. He has never been served with notice. The petitioner is prepared to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. The petitioner, in these

circumstances, has come to this Court with this petition under Section 482 Cr.P.C. for a direction that the petitioner's application for bail may be considered on merits, in accordance with law and expeditiously.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in Alice George v. Dy.S.P. of Police (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law

nd expeditiously - on the date of surrender itself, unless there are compelling and exceptional reasons.

(R. BASANT)
Judge

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